

Citizens of foreign countries are not exempt from Use Tax liability for purchases of merchandise at retail within the State of Illinois. See 86 Ill. Adm. Code 130.605. (This is a GIL.)

November 30, 2004

Dear Xxxxx:

This letter is in response to your letter dated December 18, 2003, in which you request information. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at www.ILTAX.com to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

I am an argentine citizen, that has had the oportunity to visit your country recently, together with my wife, who has attended a exhibition at PLACE.

We have greatly enjoyed our stay.

The purpose of this letter is with reference to have the posibility of getting back our taxes. Mostly every shop we visited, the employees insisted on the fact that our taxes could be get back at airport. So I visited the custom officer at airport and they suggested me that the way was to write to you.

We wish we could have left the taxes, as some other time we did, but today our exchange money is one to three and everything we purchase was a big effort for our personal economy. So we will appreciate very much if we could have this right.

I imagen that you need that I demonstrate to you the fact so i am attaching my receipts and documentation of our trip.

If you are sending a check please make the order to

I send you my best regards

DEPARTMENT'S RESPONSE:

I apologize for the delay in responding to your inquiry. The Illinois Retailers' Occupation Tax Act imposes a tax upon persons engaged in this State in the business of selling tangible personal property to purchasers for use or consumption. The tax is measured by the seller's gross receipts from such sales made in the course of such business. See 86 Ill. Adm. Code 130.101. In Illinois, Use Tax is imposed on the privilege of using, in this State, any kind of tangible personal property that is purchased anywhere at retail from a retailer. See 86 Ill. Adm. Code 150.101. Mere possession in Illinois is considered a use. Consequently, if the purchases occur in Illinois, the purchasers must pay the Use Tax to the retailer. Please note that a sale is taxable, even though a purchaser that receives physical possession of the property in this State immediately transports the property out of this State for use outside the State. See 86 Ill. Adm. Code 130.605(a)(2), enclosed. The State of Illinois has no specific exemption for purchases by foreign or domestic travelers where the property is delivered and used in Illinois.

However, when a sale is conducted in which the seller is obligated, under the terms of an agreement with the purchaser, to make delivery of the property from a point in this State to a point outside this State, not to be returned to this State, provided that such delivery is actually made, the gross receipts are not subject to tax. See subsection (b) of the enclosed copy of 86 Ill. Adm. Code 130.605. For example, the exemption would apply when a seller makes delivery in Illinois to a freight forwarder who handles the arrangements for the property to be delivered outside the United States, not to be returned to the United States. The result would be different if the purchaser received or picked up the goods prior to delivery to a freight forwarder. Based upon the information you provided, none of the items that were purchased would qualify for this exemption since they were all received by you or your wife in this State.

The Hotel Operators' Occupation Tax Act imposes a tax upon persons engaged in the business of renting, leasing, or letting rooms in a hotel. See 86 Ill. Adm. Code 480.101. The Hotel Operators' Occupation Tax is not a tax imposed upon those guests renting the rooms, rather, it is imposed upon persons (i.e., hotel operators) engaged in the business of renting, leasing or letting rooms in a hotel. However, hotel operators are allowed to reimburse themselves for their tax liability by collecting a corresponding amount of reimbursement from customers. The only exemptions available to hotel operators are for rentals to permanent residents and to certain diplomatic personnel. There is no exemption from the tax for persons traveling from outside the United States.

For questions concerning reimbursement of taxes paid in a municipality or county which taxes are not administered by the Illinois Department of Revenue, such as an amusement tax, please contact the county or municipality directly.

I hope this information is helpful. If you require additional information, please visit our website at www.ILTAX.com or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).]

Sincerely,

Samuel J. Moore
Associate Counsel

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